IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE JURISDICTION

WRIT PETITION NO.2643 OF 2005

Shri.Shankar Sahakari Sakhar Karkhana Ltd. ..Petitioner

Vs.

Sri.Manik Laxman Kadam ..Respondent

...

Mr.S.S.Shah for Petitioner

...

CORAM : B.H.MARLAPALLE,J.

DATE : APRIL 28,2005

P.C.:

1. In Application (BIR) No.17 of 1988 filed under Section 78A & D of the Bombay Industrial Relations Act 1946, the Labour Court decided the preliminary issue regarding the legality of the enquiry and held by the impugned order dated 7.1.1998 that the enquiry conducted into the charges dated 13.5.1988 against the applicant was not conducted in fair, proper and legal manner and therefore, it was vitiated for non-observance of principles of natural justice. This order was challenged in Appeal (BIR) No.4 of 1998 before the Industrial Court and the said appeal was also dismissed on 17.11.2003. The application for review filed before the Industrial Court came to

be dismissed on 15.1.2005. Thus from 7.1.1998 onwards, there is no progress in the application pending before the Labour Court.

2. It is well settled that if the enquiry conducted against the employee was held to be vitiated for any reasons whatsoever, the employer has the opportunity to conduct a de-novo enquiry. The learned counsel for the Petitioner states that an application to the said effect, if not on record submitted already, will be made within one week and the same will have to be undoubtedly considered by the Lower Court as per law.

3. The petition therefore, could be disposed of by grant of such liberty to the Petitioner and the Petitioner may take appropriate steps to conduct a de-novo enquiry before the Labour Court.

4. The petition is disposed of with liberty as is available in law.

[B.H.MARLAPALLE,J.]